
By: **Senators Hooper and Brochin**

Introduced and read first time: January 31, 2003

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Health Occupations - Gifts from Pharmaceutical Manufacturers or**
3 **Pharmaceutical Marketers - Prohibited**

4 FOR the purpose of authorizing certain health occupation boards to reprimand, place
5 on probation, suspend, or revoke the license of certain health care providers for
6 accepting certain gifts greater than a certain amount from a pharmaceutical
7 manufacturing company or a pharmaceutical marketer; prohibiting certain
8 health care providers from accepting any gifts, other than certain
9 pharmaceutical products and information, greater than a certain amount from a
10 pharmaceutical manufacturing company or a pharmaceutical marketer;
11 defining certain terms; and generally relating to prohibiting certain health care
12 providers from accepting gifts greater than a certain amount from
13 pharmaceutical manufacturers or pharmaceutical marketers.

14 BY renumbering

15 Article - Health Occupations
16 Section 1-101(i), (j), (k), and (l), respectively
17 to be Section 1-101(l), (m), (n), and (o), respectively
18 Annotated Code of Maryland
19 (2000 Replacement Volume and 2002 Supplement)

20 BY adding to

21 Article - Health Occupations
22 Section 1-101(i), (j), and (k), 8-316(a)(34), 8-508(e), 12-313(b)(29), 12-508,
23 14-404(a)(41), and 14-505.1
24 Annotated Code of Maryland
25 (2000 Replacement Volume and 2002 Supplement)

26 BY repealing and reenacting, with amendments,

27 Article - Health Occupations
28 Section 8-316(a)(32) and (33), 12-313(b)(27) and (28), and 14-404(a)(39) and
29 (40)
30 Annotated Code of Maryland

1 (2000 Replacement Volume and 2002 Supplement)

2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
3 MARYLAND, That Section(s) 1-101(i), (j), (k), and (l), respectively, of Article - Health
4 Occupations of the Annotated Code of Maryland be renumbered to be Section(s)
5 1-101(l), (m), (n), and (o), respectively.

6 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
7 read as follows:

8 **Article - Health Occupations**

9 1-101.

10 (I) (1) "PHARMACEUTICAL MANUFACTURING COMPANY" MEANS ANY
11 ENTITY THAT IS ENGAGED IN THE PRODUCTION, PREPARATION, PROPAGATION,
12 COMPOUNDING, CONVERSION, OR PROCESSING OF PRESCRIPTION DRUGS:

13 (I) DIRECTLY OR INDIRECTLY BY EXTRACTION FROM SUBSTANCES
14 OR NATURAL ORIGIN;

15 (II) INDEPENDENTLY BY MEANS OF CHEMICAL SYNTHESIS; OR

16 (III) BY A COMBINATION OF EXTRACTION AND CHEMICAL
17 SYNTHESIS.

18 (2) "PHARMACEUTICAL MANUFACTURING COMPANY" INCLUDES ANY
19 ENTITY ENGAGED IN THE PACKING, REPACKAGING, LABELING, RELABELING, OR
20 DISTRIBUTION OF PRESCRIPTION DRUGS.

21 (3) "PHARMACEUTICAL MANUFACTURING COMPANY" DOES NOT
22 INCLUDE A WHOLESALE DRUG DISTRIBUTOR OR PHARMACIST LICENSED UNDER
23 TITLE 12 OF THIS ARTICLE.

24 (J) (1) "PHARMACEUTICAL MARKETER" MEANS A PERSON WHO, WHILE
25 EMPLOYED BY OR UNDER CONTRACT TO REPRESENT A PHARMACEUTICAL
26 MANUFACTURING COMPANY, ENGAGES IN PHARMACEUTICAL:

27 (I) DETAILING;

28 (II) PROMOTIONAL ACTIVITIES; OR

29 (III) MARKETING TO ANY PHYSICIAN, NURSE PRACTITIONER,
30 PHARMACIST, HOSPITAL, NURSING HOME, OR OTHER PERSON AUTHORIZED TO
31 PRESCRIBE, DISPENSE, OR PURCHASE FOR RESALE OR DISTRIBUTION, ANY
32 PRESCRIPTION DRUG.

33 (2) "PHARMACEUTICAL MARKETER" DOES NOT INCLUDE A WHOLESALE
34 DRUG DISTRIBUTOR.

1 (K) "PHARMACEUTICAL PRODUCT" MEANS A DRUG OR MEDICINE THAT MAY
2 BE PRESCRIBED BY AN AUTHORIZED PRESCRIBER.

3 8-316.

4 (a) Subject to the hearing provisions of § 8-317 of this subtitle, the Board may
5 deny a license or grant a probationary license to any applicant, reprimand any
6 licensee, place any licensee on probation, or suspend or revoke the license of a licensee
7 if the applicant or licensee:

8 (32) When acting in a supervisory position, directs another nurse to
9 perform an act that is beyond the nurse's knowledge and skills; [or]

10 (33) When acting in a supervisory position, directs another nurse to
11 delegate a nursing task to an individual when that nurse reasonably believes:

12 (i) The individual lacks the knowledge and skills to perform the
13 task; or

14 (ii) The patient's condition does not allow delegation of the nursing
15 task; OR

16 (34) IS CERTIFIED AS A NURSE PRACTITIONER, AND, EXCEPT FOR
17 PHARMACEUTICAL PRODUCT SAMPLES AND LITERATURE PERTAINING TO
18 PHARMACEUTICAL PRODUCTS, ACCEPTS ANY GIFT GREATER THAN \$50 FROM A
19 PHARMACEUTICAL MANUFACTURING COMPANY OR A PHARMACEUTICAL MARKETER
20 IN VIOLATION OF § 8-508(E) OF THIS TITLE.

21 8-508.

22 (E) EXCEPT FOR PHARMACEUTICAL PRODUCT SAMPLES AND LITERATURE
23 PERTAINING TO PHARMACEUTICAL PRODUCTS, A NURSE PRACTITIONER SUBJECT TO
24 THIS TITLE MAY NOT ACCEPT ANY GIFT GREATER THAN \$50 FROM A
25 PHARMACEUTICAL MANUFACTURING COMPANY OR A PHARMACEUTICAL MARKETER.

26 12-313.

27 (b) Subject to the hearing provisions of § 12-315 of this subtitle, the Board, on
28 the affirmative vote of a majority of its members then serving, may deny a license to
29 any applicant, reprimand any licensee, place any licensee on probation, or suspend or
30 revoke a license if the applicant or licensee:

31 (27) Provides or causes to be provided confidential patient information to
32 any person without first having obtained the patient's consent, as required by §
33 12-403(b)(13) of this title and by Title 4, Subtitle 3 of the Health - General Article;
34 [or]

35 (28) Fails to cooperate with a lawful investigation conducted by the Board
36 or the Division of Drug Control; OR

1 (29) EXCEPT FOR PHARMACEUTICAL PRODUCT SAMPLES AND
2 LITERATURE PERTAINING TO PHARMACEUTICAL PRODUCTS, ACCEPTS ANY GIFT
3 GREATER THAN \$50 FROM A PHARMACEUTICAL MANUFACTURING COMPANY OR A
4 PHARMACEUTICAL MARKETER IN VIOLATION OF § 12-508 OF THIS TITLE.

5 12-508.

6 EXCEPT FOR PHARMACEUTICAL PRODUCT SAMPLES AND LITERATURE
7 PERTAINING TO PHARMACEUTICAL PRODUCTS, A PHARMACIST SUBJECT TO THIS
8 TITLE MAY NOT ACCEPT ANY GIFT GREATER THAN \$50 FROM A PHARMACEUTICAL
9 MANUFACTURING COMPANY OR A PHARMACEUTICAL MARKETER.

10 14-404.

11 (a) Subject to the hearing provisions of § 14-405 of this subtitle, the Board, on
12 the affirmative vote of a majority of its full authorized membership, may reprimand
13 any licensee, place any licensee on probation, or suspend or revoke a license if the
14 licensee:

15 (39) Intentionally misrepresents credentials for the purpose of testifying
16 or rendering an expert opinion in hearings or proceedings before the Board or those
17 otherwise delegated to the Office of Administrative Hearings; [or]

18 (40) Fails to keep adequate medical records as determined by appropriate
19 peer review; OR

20 (41) EXCEPT FOR PHARMACEUTICAL PRODUCT SAMPLES AND
21 LITERATURE PERTAINING TO PHARMACEUTICAL PRODUCTS, ACCEPTS ANY GIFT
22 GREATER THAN \$50 FROM A PHARMACEUTICAL MANUFACTURING COMPANY OR A
23 PHARMACEUTICAL MARKETER IN VIOLATION OF § 14-505.1 OF THIS TITLE.

24 14-505.1.

25 EXCEPT FOR PHARMACEUTICAL PRODUCT SAMPLES AND LITERATURE
26 PERTAINING TO PHARMACEUTICAL PRODUCTS, A PHYSICIAN SUBJECT TO THIS TITLE
27 MAY NOT ACCEPT ANY GIFT GREATER THAN \$50 FROM A PHARMACEUTICAL
28 MANUFACTURING COMPANY OR A PHARMACEUTICAL MARKETER.

29 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2003.